

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

(1) Ivan Torres, an Oklahoma Resident and United States Citizen,

Plaintiff,

VS.

(1) John F. Kerry, In his Official Capacity as Secretary of State of the United States,

Defendant.

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Case No. 14-CV-552-JED-TLW

Attorney Lien Claimed

Jury Trial Demanded

COMPLAINT

COMES NOW Plaintiff, pursuant to 8 U. S. C. § 1503(a), and files his Complaint seeking Declaratory and Injunctive Relief. In support, Plaintiff states:

1. Plaintiff, Ivan Torres, is a resident of Wagoner County, State of Oklahoma, and a citizen of the United States of America.
2. Defendant, John F. Kerry, is the duly appointed and confirmed Secretary of State of the United States; and he is the official charged with granting and issuing passports, under 22 U.S.C.A. § 211(a).
3. Defendant maintains his offices as Secretary in the District of Columbia.
4. This is an action for declaratory judgment and injunctive relief pursuant to 28 U.S.C.A. § 2201 and 28 U.S.C.A. § 2202, and is brought for the purpose of determining a question of actual controversy between the parties as more fully appears below.
5. Jurisdiction of this action is based on 5 U.S.C.A. § 704 and 28 U.S.C.A. § 1331(a).
6. Venue lies in this Court under 28 U.S.C.A. § 1391(e).

7. On June 10, 2013, pursuant to and consistent with 22 C.F.R. § 51.20, Plaintiff submitted his completed Application for a U.S. Passport to the Department of State.
8. On June 10, 2013 Plaintiff paid all applicable fees to obtain his passport, with an additional fee paid to have his application expedited.
9. The Department of State, on their web site, explains expected time with expedited service as "Our expedited service commitment is to process your passport application within 8 business days from the time your application is received by a passport agency. This means you should receive your passport or denial letter within 3 weeks door-to-door."

<http://travel.state.gov/content/passports/english/passports/apply.html>.
10. Plaintiff also submitted substantial amounts of information and evidence as irrefutable evidence of his Identity and U.S. Citizenship, as defined by the U.S. Constitution, Art. 4 U.S. Const. § 2, Cl. 1; 14th Amendment, § 1.
11. Among other records, Plaintiff provided a copy of his Oklahoma Driver's License, his Social Security Card; his Selective Service Registration Card, a birth record, ordered and adjudged by the District Court of Tulsa County, State of Oklahoma, and early childhood medical and school records, identified by the Department of State as acceptable forms of evidence of U.S. Citizenship.
12. The Department of State, assigned Plaintiff's application reference number 610032865.
13. After submitting his passport application and supporting documents, Plaintiff then applied for a "U.S. SENTRI Card."
14. The United States conducted a background investigation, personally interviewed Plaintiff, concluded, among other things, that Plaintiff is a citizen of the United States, and approved his application for a "SENTRI Card."

15. Then eighty-seven (87) days after submitting his passport application, the United States, Department of State, directly contrary to the United State's position on Plaintiff's "SENTRI Card" application, in a letter dated September 5, 2013, indicated Plaintiff's *U.S. Citizenship evidence* was insufficient.
16. After this denial Defendants, on September 23, 2013 issued Plaintiff his "SENTRI Card," which clearly indicates that Plaintiff is a citizen of the United States of America. **Ex. 1.**
17. In response to the U.S. Department of State's September 5, 2013 letter, Plaintiff provided a copy of the "SENTRI Card," issued by the United States of America, which declares Plaintiff is a citizen of the United States.
18. Plaintiff contacted the Passport office on several occasions to check the status of his Application. He was regularly told to check status on-line.
19. As instructed, Plaintiff checked on-line for many months and each time received the response; Application was being processed.
20. Pursuant to 22 C.F.R. § 51.75, Plaintiff was entitled to "notification in writing of the adverse action . . . (which) shall set forth the specific reasons for the adverse action . . ."
21. Then Approximately July, 2014, the State Department's response changed to the finding that Plaintiff's Application could not be found. The change in application status from "processing" to "cannot be found" is tantamount to a denial of Plaintiff's passport.
22. In view of Defendant's constructive denial of Plaintiff's Passport, and Plaintiff's contention that denial is contrary to the law and Plaintiff's Constitutional rights to the "privileges or immunities of citizens of Unites States there is an actual controversy, within the jurisdiction of this Court, and declaratory and injunctive relief will effectively adjudicate the rights of the parties.

23. Plaintiff has a continuing personal desire to travel; and Defendant's final action is depriving him of his fundamental right to travel abroad, without due process of law in violation of the Fifth Amendment to the United States Constitution.

24. Plaintiff, Ivan Torres, is not subject to any of the provisions set forth in 22 C.F.R. § 51.70(a)(b) or 22 C.F.R. § 51.71.

25. As a citizen of the United States, Plaintiff is entitled to his passport.

WHEREFORE, Plaintiff prays that:

1. Judgment be entered declaring that the denial of his application for the issuance of a passport is arbitrary and capricious, unlawful, null and void, and of no force and effect.
2. Defendant be permanently enjoined from denying plaintiff's application on the basis of the proceedings complained of.
3. Defendant be ordered to grant Plaintiff's lawful Passport.
4. That the Court grant such other and further relief as it may be deemed necessary and proper, including a reasonable attorney's fees.

Respectfully Submitted,

By s/William D. Thomas
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